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02-0020-PHR

BEFORE THE ARIZONA STATE BOARD OF PHARMACY

In the Matter of:

GARY HINCHMAN)
Pharmacist License)
Number 7013)
_____)

**CONSENT AGREEMENT AND ORDER
FOR SUSPENSION AND PROBATION
02-0020-PHR**

DIRECTED TO: GARY HINCHMAN
4013 W. Charlotte Drive
Glendale, AZ 85310

RECITALS

In the interest of a prompt and judicious settlement of this case, consistent with the public interest, statutory requirements and the responsibilities of the Arizona State Board of Pharmacy ("Board") and pursuant to A.R.S. §§ 32-1901 *et seq* and 41-1092.07(F)(5), GARY HINCHMAN ("Respondent"), holder of pharmacist license number 7013 to practice pharmacy in the State of Arizona, and the Board enter into the following Recitals, Findings of Fact, Conclusions of Law and Order ("CONSENT AGREEMENT") as a final disposition of this matter.

1. Respondent has read and understands this CONSENT AGREEMENT and has had the opportunity to discuss this CONSENT AGREEMENT with an attorney, or has waived the opportunity to discuss this CONSENT AGREEMENT with an attorney.

2. Respondent understands that he has a right to a public administrative hearing concerning each and every allegation set forth in the above-captioned matter, at which hearing he could present evidence and cross-examine witnesses. By entering into this CONSENT AGREEMENT, Respondent freely and voluntarily relinquishes all right to such an administrative hearing, as well as rights of rehearing, review, reconsideration, appeal, judicial review or any other administrative and/or judicial action, concerning the matters set forth herein. Respondent affirmatively agrees that this CONSENT AGREEMENT shall be irrevocable.

3. Respondent understands that this CONSENT AGREEMENT or any part of the agreement may

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1 be considered in any future disciplinary action against him.

2 4. Respondent understands that this CONSENT AGREEMENT does not constitute a dismissal
3 or resolution of any other matters currently pending before the Board, if any, and does not constitute any
4 waiver, express or implied, of the Board statutory authority or jurisdiction regarding any other pending
5 or future investigation, action or proceeding. Respondent also understands that acceptance of this
6 CONSENT AGREEMENT does not preclude any other agency, subdivision, or officer of this State from
7 instituting other civil or criminal proceedings with respect to the conduct that is the subject of this
8 CONSENT AGREEMENT.

9 5. Respondent acknowledges and agrees that upon signing this CONSENT AGREEMENT and
10 returning this document to the Board's Executive Director, Respondent may not revoke his acceptance
11 of the CONSENT AGREEMENT or make any modifications to the document regardless of whether the
12 CONSENT AGREEMENT has been signed by the Executive Director. Any modification to this original
13 document is ineffective and void unless mutually agreed by the parties in writing.

14 6. Respondent understands that the foregoing CONSENT AGREEMENT shall not become
15 effective unless and until adopted by the Board and signed by its Executive Director.

16 7. Respondent understands and agrees that if the Board does not adopt this CONSENT
17 AGREEMENT, he will not assert as a defense that the Board's consideration of this CONSENT
18 AGREEMENT constitutes bias, prejudice, prejudgement or other similar defense.

19 8. Respondent understands that this CONSENT AGREEMENT is a public record that may be
20 publicly disseminated as a formal action of the Board and may be reported as required by law to the
21 Health Care Integrity and Protection Data Bank.

22 9. Respondent understands that if he violates this Order in any way or fails to fulfill the
23 requirements of this Order, the Board, after giving him notice and the opportunity to be heard, may
24 revoke, suspend or take other disciplinary action against him. The sole issue at such hearing shall be
25 whether or not he violated this Order.

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REVIEWED AND ACCEPTED BY:


GARY HINCHMAN

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FINDINGS OF FACT

By stipulation of the parties, this CONSENT AGREEMENT is entered into for final disposition of the matters described herein. Respondent acknowledges that sufficient evidence exists for the Board to make the following Findings of Fact:

10. On September 2, 2002, Respondent dispensed thirty (30) hydrocodone 5 mg./acetaminophen 500mg. tablets, a Class III Controlled Substance, as defined in A.R.S. § 36-2514 and 21 C.F.R. § 1308.13, at John C. Lincoln Deer Valley Hospital Pharmacy, for personal use, without a valid prescription as defined in A.R.S. § 32-1901.66, in violation of A.R.S. § 36-2525(D), A.R.S. § 32-1965(8) and 21 C.F.R. § 1306.21. *(in fact - was valid Rx)*

11. On September 10, 2002, Respondent dispensed eighty (80) hydrocodone 5 mg./acetaminophen 500mg. tablets, a Class III Controlled Substance, as defined in A.R.S. § 36-2514 and 21 C.F.R. § 1308.13, at John C. Lincoln Hospital Pharmacy, for personal use, without a valid prescription as defined in A.R.S. § 32-1901.66, in violation of A.R.S. § 36-2525(D), A.R.S. § 32-1965(8) and 21 C.F.R. § 1306.21.

12. On September 16, 2002, Respondent dispensed forty (40) hydrocodone 5mg./acetaminophen 500mg. tablets, a Class III Controlled Substance, as defined in A.R.S. § 36-2514 and 21 C.F.R. § 1308.13, at John C. Lincoln Hospital Pharmacy, for personal use, without a valid prescription as defined in A.R.S. § 32-1901.66, in violation of A.R.S. § 36-2525(D), A.R.S. § 32-1965(8) and 21 C.F.R. § 1306.21. *(was valid)*

13. On September 20, 2002, Respondent dispensed thirty (30) hydrocodone 7.5 mg./acetaminophen 500mg. tablets, a Class III Controlled Substance, as defined in A.R.S. § 36-2514

1 and 21 C.F.R. § 1308.13, at John C. Lincoln Hospital Pharmacy, for personal use, without a valid
2 prescription as defined in A.R.S. § 32-1901.66, in violation of A.R.S. § 36-2525(D), A.R.S. § 32-1965(8)
3 and 21 C.F.R. § 1306.21.

4 14. On the 5th day of October, 2002, Respondent voluntarily surrendered his pharmacist license
5 to the Board staff and agreed not to return to the practice of pharmacy until after an independent
6 evaluation by a Board approved psychologist named Gerald S. Mayer PhD.

7 15. On the 28th day of October, 2002, the Board received an evaluation from Gerald S. Mayer
8 PhD. that indicated that Respondent was classified as non-dependent according to the decision rules for
9 the adult SASSI (substance abuse subtle screening inventory) .

10 CONCLUSIONS OF LAW

11 16. The conduct and circumstances described in the factual allegations above constitutes grounds
12 for disciplinary action pursuant to A.R.S. § 32-1927(A)(10) :

13 The licensee is found by the board to be guilty of violating any Arizona or federal law, rule or
14 regulation relating to the manufacture and distribution of drugs, devices or the practice of
pharmacy.

15 ORDER

16 Based on the foregoing Findings of Fact and Conclusions of Law, the Board imposes the following:
17

18 17. It is ordered that the Respondent's license number 7013 to practice pharmacy in the State of
19 Arizona, be SUSPENDED for thirty (30) days from the date of voluntary surrender, October 5, 2002.
20 Effective November 5, 2002, respondent's license shall be immediately placed on PROBATION for a
21 period of two (2) years with the following terms and conditions.

22 TERMS OF PROBATION

23 18. Primary Care Physician

24 Respondent shall obtain one medical practitioner approved by the Board or its designee to
25 coordinate his pain management needs due to his health condition and to be aware of and approve of
26 all prescription medications used by the Respondent. The medical practitioner shall, within fourteen
(14) days of the effective date of this Consent Agreement, inform the Board in writing of his

1 knowledge of this Consent Agreement and provide a list of medications prescribed for Respondent.
2 Respondent shall execute all release of information forms as required by the Board or its designee.
3

4 19. Restricted Practice Setting

5 In the practice of pharmacy, Respondent shall only work in an Arizona licensed pharmacy
6 approved by the Board or its designee in a capacity where contact with Controlled Substances is
7 limited to an extent approved by the Board or its designee.

8 20. Prohibited Substances Respondent shall abstain completely from the use of the following
9 substances: alcohol or foodstuffs or beverages or toiletries containing alcohol, foodstuffs containing
10 poppy seed or hemp products, and herbal or health preparations containing derivatives of drugs.
11 Respondent is fully responsible for any and all ingested materials and their contents.

12 21. Abstain from Drug Use/Drug Use Exception

13 Respondent shall abstain completely from the personal use or possession of all drugs,
14 controlled substances and dangerous drugs and narcotics as defined in the Arizona law or any drug
15 requiring a prescription except for drugs approved by an appropriate medical care practitioner
16 identified to the Board pursuant to paragraph 18. above. All such prescriptions shall be reported to the
17 Board office in writing within seven (7) days by the Respondent. Respondent shall also abstain from
18 the use of all over the counter medications and drugs except plain aspirin, acetaminophen or ibuprofen.

19 22. Renewal of License

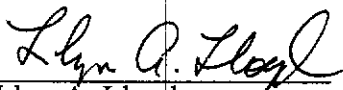
20 In the event that Respondent's license to practice pharmacy is scheduled to expire while this
21 CONSENT AGREEMENT is in effect, Respondent shall apply for renewal of the license, pay
22 applicable fee(s), and otherwise maintain qualification to practice pharmacy in the State of Arizona.
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28. Costs

Respondent shall bear all costs of compliance with this CONSENT AGREEMENT.

DATED and EFFECTIVE this 12th day of November, 2002

ARIZONA STATE BOARD OF PHARMACY

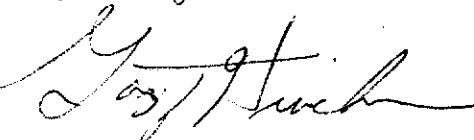


Llyn A. Lloyd
Executive Director

ORIGINAL of the foregoing, fully executed,
filed this 12th day of November 2002, with:
Arizona State Board of Pharmacy
4425 W. Olive Avenue, #140
Glendale, AZ 85302

Fully Executed Copy of the foregoing sent
via Certified US mail this 12th day
of November 2002, to:

GARY HINCHMAN
4013 W. Charlotte Drive
Glendale, AZ 85310
Respondent :

 12-14-02

627-266-3299 (Sorry, Kame had the phone disconnected)

(Sorry, I didn't see the Acceptance line (page 3) -
what I glommed thru the consent agreement - thought
it would be at end of letter).

(working on Express Scripts - started 12-02-02)
as phone phonenumber)

(Requested State Board, M.D. Office to send info to Board
(Nov. 25, 2002) - Give them Mr. Lloyd's CARD.